

JUDGE SWEET

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHARTER COMMUNICATIONS, INC.,

Plaintiff,

-against-

VERIZON COMMUNICATIONS INC. and
VERIZON SERVICES CORP.,

Defendants.

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**COMPLAINT FOR DECLARATORY
JUDGMENT OF PATENT
NON-INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiff Charter Communications, Inc. ("Charter"), by its attorneys Quinn Emanuel Urquhart Oliver & Hedges, LLP, for its Complaint against Defendants Verizon Communications Inc. and Verizon Services Corp. (collectively "Verizon"), alleges as follows:

THE NATURE OF THE ACTION

1. Verizon is the purported assignee of U.S. Patent No. 5,864,415 ("the '415 patent"), entitled "Fiber Optic Network with Wavelength-Division-Multiplexed Transmission to Customer Premises" and U.S. Patent No. 6,055,077 ("the '077 patent"), entitled "Multimedia Distribution System Using Fiber Optic Lines." As a result of Verizon's communication to Charter of its intention to pursue claims of infringement of the '415 and '077 patents against Charter, Charter is under reasonable apprehension of suit by Verizon. Charter does not infringe the '415 or '077 patent. Charter brings this action to obtain declaratory judgments of non-infringement of the '415 and '077 patents.

THE PARTIES

2. Charter Communications, Inc. is a Delaware corporation with its principal place of business at 12405 Powerscourt Drive, Saint Louis, Missouri.

3. Charter is informed and believes and on that basis alleges that Verizon Communications Inc. is a Delaware corporation with its principal place of business at 140 West Street, New York, New York.

4. Charter is informed and believes and on that basis alleges that Verizon Services Corp. is a Delaware corporation with its principal place of business at 1310 North Courthouse Road, Arlington, Virginia.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 et seq.

6. This Court has subject matter jurisdiction under the provisions of 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

7. This Court can enter the declaratory relief sought in this Complaint because an actual case and controversy exists between the parties within the scope of this Court's jurisdiction pursuant to 28 U.S.C. § 2201. An actual case and controversy exists because on January 9, 2009 Verizon communicated to Charter its intention to pursue claims of infringement of the '415 and '077 patents against Charter, thereby causing Charter reasonably to apprehend litigation of the '415 and '077 patents.

8. Venue is proper in this District under the provisions of 28 U.S.C. § 1391(b).

GENERAL ALLEGATIONS

9. Charter is informed and believes and on that basis alleges that Verizon is the assignee of both the '415 and '077 patents. The documents attached to this Complaint as Exhibits A and B are true and correct copies of the '415 and '077 patents.

10. On January 9, 2009, Verizon communicated to Charter its intention to pursue claims of infringement of the '415 and '077 patents against Charter.

11. Verizon's actions have caused Charter reasonably to apprehend litigation of the '415 and '077 patents.

12. Charter does not and has not infringed, contributed to, or induced infringement of any valid claim of the '415 or '077 patent, either literally or under the doctrine of equivalents.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of U.S. Patent No. 5,864,415)

13. Charter realleges and incorporates by reference paragraphs 1 through 12, inclusive, as though fully set forth in this paragraph.

14. Charter does not make, use, offer for sale, or sell, and has not ever made, used, offered to sell or sold, a method, device or apparatus that infringes, contributes to, or induces infringement of any valid claim of the '415 patent, either literally or under the doctrine of equivalents.

15. There is an actual controversy, within the meaning of 28 U.S.C. § 2201, between Charter and Verizon concerning the non-infringement of the '415 patent.

16. Charter is entitled to a declaratory judgment that it does not infringe, contribute to, or induce infringement of any valid claim of the '415 patent, either literally or under the doctrine of equivalents.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,055,077)

17. Charter realleges and incorporates by reference paragraphs 1 through 12, inclusive, as though fully set forth in this paragraph.

18. Charter does not make, use, offer for sale, or sell, and has not ever made, used, offered to sell or sold, a method, device or apparatus that infringes, contributes to, or induces

infringement of any valid claim of the '077 patent, either literally or under the doctrine of equivalents.

19. There is an actual controversy, within the meaning of 28 U.S.C. § 2201, between Charter and Verizon concerning the non-infringement of the '077 patent.

20. Charter is entitled to a declaratory judgment that it does not infringe, contribute to, or induce infringement of any valid claim of the '077 patent, either literally or under the doctrine of equivalents.

PRAYER FOR RELIEF

WHEREFORE, Charter prays for judgment against Verizon as follows:


- A. For a declaration that Charter does not infringe, contribute to, or induce infringement of any valid claim of the '415 or '077 patent, either literally or under the doctrine of equivalents;
- B. For a finding that this is an exceptional case and an order awarding Charter its attorneys' fees pursuant to 35 U.S.C. § 285 or otherwise;
- C. For an order awarding Charter its costs; and
- D. For such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

In accordance with Federal Rule of Civil Procedure 38(b), Plaintiff Charter Communications, Inc. demands a trial by jury on all issues triable by jury.

DATED: New York, New York
January 15, 2009

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